

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
AT BLUEFIELD

SHAWN T. ANDERSON,

Movant,

v.

CIVIL ACTION No. 1:16-05790  
(CRIMINAL ACTION No. 1:12-00093-001)

UNITED STATES OF AMERICA,

Respondent.

**MEMORANDUM OPINION AND ORDER**

By Standing Order, this action was referred to United States Magistrate Judge Dwane L. Tinsley for submission of findings and recommendation regarding disposition pursuant to 28 U.S.C. § 636(b)(1)(B). Magistrate Judge Tinsley submitted to the court his Findings and Recommendation on October 8, 2024, in which he recommended that the court lift the stay, reinstate the above case to the active docket; deny Anderson's Motion to Correct Sentence Under 28 U.S.C. § 2255, (ECF No. 47); and remove this matter from the court's docket.

In accordance with the provisions of 28 U.S.C. § 636(b), the parties were allotted fourteen days and three mailing days in which to file any objections to Magistrate Judge Tinsley's Findings and Recommendation. The failure of any party to file such objections within the time allowed constitutes a waiver of



such party's right to a de novo review by this court. Snyder v. Ridenour, 889 F.2d 1363 (4th Cir. 1989).

Neither party filed any objections to the Magistrate Judge's Findings and Recommendation within the requisite time period. Accordingly, the court also adopts the Finding and Recommendation of Magistrate Judge Tinsley as follows:

1. The stay of the above case is **LIFTED** and this matter is **REINSTATED** to the court's active docket;
2. Anderson's Motion to Correct Sentence Under 28 U.S.C. § 2255, is **DENIED**; and
3. The Clerk is directed to remove this case from the court's active docket.

The court has considered whether to grant a certificate of appealability. See 28 U.S.C. § 2253(c). A certificate will not be granted unless there is "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The standard is satisfied only upon a showing that reasonable jurists would find that any assessment of the constitutional claims by this court is debatable or wrong and that any dispositive procedural ruling is likewise debatable. Miller-El v. Cockrell, 537 U.S. 322, 336-38 (2003); Slack v. McDaniel, 529 U.S. 473, 484 (2000); Rose v. Lee, 252 F.3d 676, 683-84 (4th Cir. 2001). The court concludes that the governing standard is



not satisfied in this instance. Accordingly, the court **DENIES** a certificate of appealability.

The Clerk is directed to send a copy of this Order to counsel of record and any unrepresented parties.

It is SO ORDERED this 14th day of November, 2024.

ENTER:

A handwritten signature in black ink, reading "David A. Faber", is written over a horizontal line.

David A. Faber

Senior United States District Judge